

**Snell & Wilmer**LLP  
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FACSIMILE

SALT LAKE CITY, UTAH

PHOENIX, ARIZONA

TUCSON, ARIZONA

IRVINE, CALIFORNIA

Denise A. Dragoo (801) 237-1998  
Internet: ddragoo@swlaw.com**FOR SETTLEMENT PURPOSES ONLY**

May 3, 1999

*Via Facsimile & U.S. Mail*Thomas A. Mitchell, Esq.  
Assistant Attorney General  
160 East 300 South, 4<sup>th</sup> Floor  
Salt Lake City, Utah 84144RE: *Division Order dated February 25, 1999, regarding Horizon Mine,**ACT/007/020**# 2**FAX Bill @ PFO**Copy Aaron: Joe**12-2-99*

Dear Tom:

Enclosed is the Settlement Agreement, Motion to Dismiss Based on Stipulation of the Parties and Order. These pleadings seek to settle Horizon Mining, LLC's ("Horizon's") alleged violation of a Division Order dated February 25, 1999 ("Division Order"), replace the Division Order with a Settlement Agreement, vacate Notice of Violation N99-26-1-1 ("NOV") and dismiss without prejudice Horizon's appeal challenging the Division Order currently pending as Docket No. 99-001, Cause No. ACT/007/020, before the Board of Oil, Gas & Mining.

By the terms of the Settlement Agreement, Horizon would modify its Mining and Reclamation Plan by May 28, 1999. Please let me know as soon as possible if this agreement is acceptable.

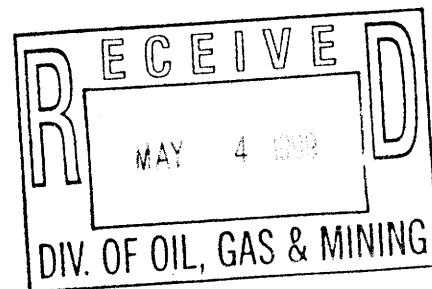
Very truly yours,



Denise A. Dragoo

DAD:jmc:79162

Enclosures

cc: Larry Jones  
Mark Wayment  
Earthfax Engineering, Inc.  
Lowell Braxton  
Daniel Moquin, Esq.

**BEFORE THE BOARD OF OIL, GAS & MINING**

**DEPARTMENT OF NATURAL RESOURCES**

**STATE OF UTAH**

IN THE MATTER OF THE REQUEST	)	MOTION TO DISMISS
FOR AGENCY ACTION FILED BY	)	BASED ON STIPULATION
HORIZON MINING, LLC, CHALLENGING)		OF THE PARTIES
THE "FINDINGS OF FACT,	)	
CONCLUSIONS OF LAW AND ORDER"	)	
ENTERED 2/25/1999, BY THE DIVISION	)	
OF OIL, GAS & MINING AFTER THE	)	DOCKET NO. 99-001
INFORMAL CONFERENCE FOR	)	
PROPOSED ADJUSTMENT TO THE BOND )		
AMOUNT, HORIZON MINING, LLC,	)	CAUSE NO. ACT/007/020
HORIZON MINE, ACT/007/020,	)	
CARBON COUNTY, UTAH	)	

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The parties, through their counsel, respectfully request the Board of Oil, Gas & Mining ("Board") to dismiss this matter without prejudice pursuant to the terms of the Settlement Agreement attached hereto.

RESPECTFULLY SUBMITTED this \_\_\_\_ day of May, 1999.

SNELL & WILMER L.L.P.

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Denise A. Dragoo  
Counsel for Horizon Mining, LLC  
Dated this \_\_\_\_ day of May, 1999

JAN GRAHAM, ATTORNEY GENERAL  
STATE OF UTAH

BY: \_\_\_\_\_  
Counsel for the Division of Oil, Gas & Mining  
Department of Natural Resources  
State of Utah

Denise A. Dragoo, 0908  
SNELL & WILMER L.L.P.  
111 East Broadway, Suite 900  
Salt Lake City, Utah 84111  
Attorneys for Horizon Mining, LLC

**BEFORE THE BOARD OF OIL, GAS & MINING**

**DEPARTMENT OF NATURAL RESOURCES**

**STATE OF UTAH**

IN THE MATTER OF THE REQUEST	)	SETTLEMENT
FOR AGENCY ACTION FILED BY	)	AGREEMENT
HORIZON MINING, LLC, CHALLENGING	)	
THE "FINDINGS OF FACT,	)	
CONCLUSIONS OF LAW AND ORDER"	)	
ENTERED 2/25/1999, BY THE DIVISION	)	
OF OIL, GAS & MINING AFTER THE	)	DOCKET NO. 99-001
INFORMAL CONFERENCE FOR	)	
PROPOSED ADJUSTMENT TO THE BOND	)	
AMOUNT, HORIZON MINING, LLC,	)	CAUSE NO. ACT/007/020
HORIZON MINE, ACT/007/020,	)	
CARBON COUNTY, UTAH	)	

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This Settlement Agreement ("Agreement"), is entered into between Horizon Mining, LLC ("Horizon"), and the Utah Division of Oil, Gas & Mining ("DOGM" or the "Division") pursuant to the Utah Coal Mining and Reclamation Act ("Act"), Utah Code Ann. § 40-10-1, et seq., without adjudication of further issues of fact or of law and without admission of any liability, the parties hereto agree as follows:

1. The Director of DOGM is authorized to negotiate and enter into this Agreement on behalf of DOGM and in accordance with the Act.

2. The purpose of this Agreement is to settle Horizon's alleged violation of the Division Order dated February 25, 1999 ("Division Order"), replace the Division Order with this Settlement Agreement, vacate Notice of Violation N99-26-1-1 ("NOV") and dismiss without prejudice Horizon's appeal challenging the Division Order currently pending as Docket No. 99-001, Cause No. ACT/007/020, before the Board of Oil, Gas & Mining (the "Board").

3. The parties wish to fully resolve this matter without admission of any violation, liability, wrong doing, failure or omission and without further judicial or administrative proceedings.

4. None of the provisions of this Agreement shall be considered admissions by any party and shall not be used by any person related or unrelated to the Agreement for purposes other than determining the basis of this Agreement.

5. The Division agrees to replace the Division Order with the following agreement of the parties regarding modification of Horizon's Mining and Reclamation Plan ("MRP") to be submitted by Horizon to the Division by Friday, May 28, 1999:

- A. Horizon agrees to update the text of the current MRP to accurately describe the coal conveyance system, coal, waste rock and snow storage areas and clearly show on a map the coal conveyance system and the exterior boundaries of the coal, waste

rock and snow storage areas in accordance with R645-301-520 and 521.160.

- B. Horizon agrees to define the estimated volume of waste rock for temporary storage at the Horizon Mine site and alternatives for disposal of waste rock which exceeds this estimated tonnage.
- C. Horizon agrees to amend the text of Chapter 3 of the MRP, Section 3.3, pages 3-6 and 3-7, to clarify the definitions of "coal," "rocky coal," "high ash coal," "waste rock" and "coal waste materials." Horizon will further clarify its criteria for disposal of waste rock, specifically referencing Mine Safety and Health Administration ("MSHA") standards regarding storing of waste rock in the Horizon Mine workings prior to bringing the waste to the surface, and ASTM standards distinguishing high ash coal from waste rock.

6. Except as agreed to herein, all other provisions of the Division Order are withdrawn, including, but not limited to any bond increase associated with removal of the coal storage pile.

7. Nothing in this Agreement shall preclude the Division from seeking civil penalties for future violations of the Act.

8. This Agreement shall become effective upon execution by both parties.

9. Horizon and the Division shall each be responsible for its own costs and attorneys' fees in this matter.

DATED this \_\_\_\_\_ day of May, 1999.

APPROVED AS TO FORM: UTAH DIVISION OF OIL, GAS & MINING

BY: \_\_\_\_\_  
Jan Graham, Attorney General

BY: \_\_\_\_\_  
Lowell Braxton, Director

DATED this \_\_\_\_\_ day of May, 1999.

HORIZON MINING, LLC

BY: \_\_\_\_\_  
Larry Jones, Mine Manager

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Settlement Agreement was hand delivered this 3<sup>rd</sup> day of May 1999, to:

Docket Secretary  
Board of Oil Gas & Mining  
1594 West North Temple, Suite 1210  
Salt Lake City, Utah 84114

Denise A. Dragoo, 0908  
SNELL & WILMER L.L.P.  
111 East Broadway, Suite 900  
Salt Lake City, Utah 84111  
Attorneys for Horizon Mining, LLC

**BEFORE THE BOARD OF OIL, GAS & MINING**

**DEPARTMENT OF NATURAL RESOURCES**

**STATE OF UTAH**

IN THE MATTER OF THE REQUEST	)	<b>ORDER</b>
FOR AGENCY ACTION FILED BY	)	
HORIZON MINING, LLC, CHALLENGING	)	
THE "FINDINGS OF FACT,	)	
CONCLUSIONS OF LAW AND ORDER"	)	
ENTERED 2/25/1999, BY THE DIVISION	)	
OF OIL, GAS & MINING AFTER THE	)	<b>DOCKET NO. 99-001</b>
INFORMAL CONFERENCE FOR	)	
PROPOSED ADJUSTMENT TO THE BOND	)	
AMOUNT, HORIZON MINING, LLC,	)	<b>CAUSE NO. ACT/007/020</b>
HORIZON MINE, ACT/007/020,	)	
CARBON COUNTY, UTAH	)	

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Based upon the Motion to Dismiss and compliance with the terms of the Settlement Agreement entered into between the parties, this action is dismissed without prejudice.

DATED this \_\_\_\_\_ day of May, 1999.

BOARD OF OIL, GAS & MINING

BY: \_\_\_\_\_  
David D. Lauriski, Chairman

APPROVED AS TO FORM:

JAN GRAHAM, ATTORNEY GENERAL  
STATE OF UTAH

BY: \_\_\_\_\_